

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Madiyalakan, et al.

Serial No.: 09/152,698

Filed: Sept. 2, 1998

For: Therapeutic Compositions that Produces an Immune Response



Examiner:

Group Art Unit: 1654

PETITION FOR CORRECTION OF INVENTORSHIP
UNDER 37 C.F.R. §1.48

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants hereby respectfully request correction of inventorship of Serial No. 09/152,698 filed September 2, 1998. Dong Luo, named as an inventor in the Declaration and Power of Attorney, has refused to sign the Declaration because he believes he is not properly named as an inventor. The Petition fee of \$130.00 is attached.

Applicants' attorney filed the present application without fee or Declaration on September 2, 1998. Applicants' attorney received a Notice to File Missing Parts (dated 9/30/1998) on October 2, 1998 and the Official Filing Receipt on October 7, 1998. Applicants' attorney prepared a Declaration and Power of Attorney, an Assignment Deed, and a Verified Statement Claiming Small Entity Status (Independent Inventor), and sent these documents to the Assignee's Patent Liaison, Susan G. Edwards, on October 16, 1998. All of

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the documents prepared by Applicants' attorney listed Dong Luo as an inventor.

On November 2, 1998, Ms Edwards sent to Applicants' attorney the documents signed by inventors Schultes, Baum, Noujaim, Leveugle, and Madiyalakan. Inventors Luo and Freutz had previously been employees of the Assignee, but in October/November 1998 were no longer employees. Ms Edwards was able to locate Dr. Freutz and send him a copy of the documents (which were signed on February 19, 1999), but Mr. Luo had returned to China and did not leave a forwarding address. Ms Edwards enlisted the aid of two of the inventors, Madiyalakan and Schultes, to locate and contact Mr. Luo. It was determined that Mr. Luo was relocating to China, but that he would be in Edmonton, Alberta, Canada for a brief period in November 1998. Since one of the inventors, Dr. Schultes lives in Edmonton, Alberta, she located Mr. Luo's temporary residence in Edmonton, sent a copy of the application and formal papers to that address, and spoke with Mr. Luo by telephone on November 20, 1998.

As noted in the attached Declaration by Dr. Schultes, Mr. Luo refused to sign the Declaration, the Assignment, or the Small Entity Declaration because "he was not comfortable with being an inventor in this patent."

As is clear from the above recitation of events, listing Mr. Luo as an inventor and discovering that this was an error, occurred without deceptive intent on the part of any of the inventors, Applicants' attorney, or the Assignee.

As required by 37 C.F.R. §1.48(a), Applicants attorney includes with this Petition the Declaration and Power of Attorney signed by all of the proper inventors, the Petition fee of \$130.00, and, since all of the inventors assigned the invention to AltaRex Corp., the written

consent by the Assignee.

Applicants' attorney notes that 37 C.F.R. §1.48(a)(1) requires a statement by the person being deleted as an inventor that the error in inventorship occurred without deceptive intent on his part. Unfortunately, Mr. Luo can not presently be located; he has returned to China, and when he left Edmonton, Alberta in November 1998, did not know what his forwarding address would be. Applicants' attorney has therefore been unable to obtain Mr. Luo's statement. In lieu thereof, Applicants' attorney respectfully requests that the Patent Office accept his statement that the actions noted above occurred without deceptive intent, and that all of the inventors' actions, the Assignee's actions and the undersigned attorney's actions were taken with full knowledge of Mr. Luo. In further support that these actions were taken without deceptive intent, the person who actually spoke with Mr. Luo, Dr. Birgit Schultes, one of the inventors, has signed a Declaration attesting to the facts of her conversation with Mr. Luo. Further, Dr. Schultes Declaration includes a copy of the memo prepared contemporaneously with the conversation with Mr. Luo. It should be clear from the above that deleting Mr. Luo as an inventor of the above-noted application has occurred without deceptive intent.

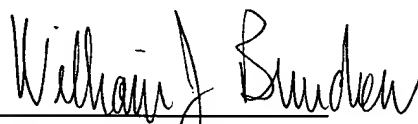
Finally, Applicants' attorney is continuing to try to locate Mr. Luo's new address in China. If and when Mr. Luo is located, a statement complying with 37 C.F.R. §1.48(a)(1) will be sent to Mr. Luo for signature.

The Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment to Deposit Account No. 02-4650, if such fees are required to maintain the present application in pending status. A duplicate copy of this form is

enclosed.

If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned at 301-203-9781.

Respectfully submitted,

A handwritten signature in cursive script, reading "William J. Bundren". The signature is written in dark ink and is positioned above a horizontal line.

William J. Bundren
PTO Reg. No. 31,712

March 2, 1999

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